

E-Filed on 01/07/08

DIAMOND MCCARTHY LLP

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Special Litigation Counsel for USACM Liquidating Trust

LEWIS AND ROCA LLP

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
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Counsel for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
USA COMMERCIAL MORTGAGE COMPANY,

Debtor.

In re:
USA CAPITAL REALTY ADVISORS, LLC,

Debtor.

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,

Debtor.

In re:
USA CAPITAL FIRST TRUST DEED FUND,
LLC,

Debtor.

In re:
USA SECURITIES, LLC,

Debtor.

Affects:
☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case Nos.:
BK-S-06-10725-LBR
BK-S-06-10726-LBR
BK-S-06-10727-LBR
BK-S-06-10728-LBR
BK-S-06-10729-LBR

JOINTLY ADMINISTERED
Chapter 11 Cases

Judge Linda B. Riegler Presiding

**NOTICE OF FILING PROOF OF
SERVICE OF SUBPOENAS FOR
RULE 2004 EXAMINATION**

NOTICE IS GIVEN that the USACM Liquidating Trust herewith files the:

**Proof of Service of Subpoena for Rule 2004 Examination
on Daniel Hayes (Exhibit A Attached);**

**Proof of Service of Subpoena for Rule 2004 Examination
on Les Utley (Exhibit B Attached); and**

**Proof of Service of Subpoena for Rule 2004 Examination
on Michael Johnson (Exhibit C Attached).**

DATED: January 7, 2008

DIAMOND MCCARTHY LLP

LEWIS AND ROCA LLP

By: /s/ Eric D. Madden
Allan B. Diamond, TX 05801800 (pro hac vice)
Eric D. Madden, TX 24013079 (pro hac vice)
William T. Reid, IV, TX 00788817 (pro hac vice)
909 Fannin, Suite 1500
Houston, Texas 77010
(713) 333-5100 (telephone)
(713) 333-5199 (facsimile)

By: /s/ Rob Charles
Susan M. Freeman, AZ 4199 (pro hac vice)
Rob Charles, NV 6593
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169-5996
(702) 949-8320 (telephone)
(702) 949-8321 (facsimile)

*Special Litigation Counsel for
USACM Liquidating Trust*

Counsel for USACM Liquidating Trust

78542.1

United States Bankruptcy Court

SOUTHERN DISTRICT OF NEW YORK

IN RE

USA COMMERCIAL MORTGAGE COMPANY,
 USA CAPITAL REALTY ADVISORS, LLC,
 USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,
 USA CAPITAL FIRST TRUST DEED FUND LLC,
 USA SECURITIES, LLC,

DEBTORS.

AFFECTS: ALL DEBTORS

TO: DANIEL HAYES
 86 Main Street, 2nd Floor
 Yonkers, New York 10701

SUBPOENA FOR RULE 2004 EXAMINATION

CASE NOS. BK-S-06-10725 LBR
BK-S-06-10726 LBR
BK-S-06-10727 LBR
BK-S-06-10728 LBR
BK-S-06-10729 LBR

JOINTLY ADMINISTERED UNDER
 CASE No. BK-S-06-10725-LBR
 IN THE DISTRICT OF NEVADA

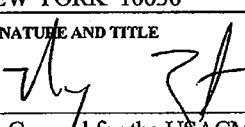
X YOU ARE COMMANDED to produce a corporate representative for examination under Federal Rule of Bankruptcy Procedure 2004, regarding the following topics at the place, date and time specified below. The USACM Liquidating Trust reserves the right to videotape all examinations.

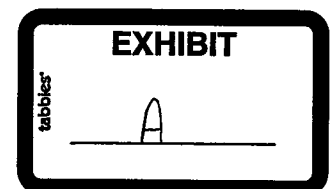
SEE ATTACHED EXHIBIT A FOR TOPICS OF EXAMINATION

PLACE OF TESTIMONY	DATE AND TIME
MERRILL LEGAL SOLUTIONS 25 W. 45 TH STREET, SUITE 900 NEW YORK, NEW YORK 10036	January 10, 2008 at 10:00 a.m.

SEE ATTACHED EXHIBIT B FOR DOCUMENTS REQUESTED

X YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:

PLACE	DATE
MERRILL LEGAL SOLUTIONS 25 W. 45 TH STREET, SUITE 900 NEW YORK, NEW YORK 10036	December 21, 2007 (or such other mutually agreeable date and time)
ISSUING OFFICER SIGNATURE AND TITLE	DATE
 Special Litigation Counsel for the USACM Liquidating Trust	November 12, 2007
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
J. MAXWELL BEATTY DIAMOND MCCARTHY, LLP 909 FANNIN, SUITE 1500 HOUSTON, TX 77010 (713) 333-5100	



PROOF OF SERVICE

DATE:

PLACE:

November 14, 2007

86 Main Street, 2nd Floor
Yonkers, NY 10701

SERVED: at 10:45am

SERVED ON (PRINT NAME)

Daniel Hayes

MANNER OF SERVICE

Personal Service

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on November 15, 2007

Date

Signature of Server

John Axelrod

Address of Server

Rule 45, Federal Rules of Civil Procedure, Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order by the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any persons who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held or,

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

STATE OF NEW YORK UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT
DOCUMENTS SERVED WITH INDEX#: BK-S-06-10725-LB AND FILED ON

IN RE USA COMMERCIAL MORTGAGE COMPANY, ET AL

Vs.

Plaintiff(s)/Petitioner(s)

Defendant(s)/Respondent(s)

STATE OF: NEW YORK)

SS

COUNTY OF WESTCHESTER)

The undersigned deponent, being duly sworn deposes and says: Deponent is not a party herein, is over 18 years of age and resides in the State of New York. On 11/14/2007 at 10:45AM, deponent did serve the within process as follows:

Process Served: SUBPOENA FOR RULE 2004 EXAMINATION
Party Served: (herein called
recipient) DANIEL HAYES

therein named.

At Location: 86 MAIN STREET, 2ND FLOOR

YONKERS NY 10701

By delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.

A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:

Sex M Color of Skin WH Color of Hair GRAY
Age 45/50 Height 5'9" Weight 165
Other Features GLASSES

Witness Fee: \$40.00 the authorizing traveling expenses and one day's witness fee was paid(tendered) to the recipient

Deponent asked person spoken to whether the recipient was presently in military service of the United States Government or on active duty in the military service in the State of New York and was informed HE was not.

Sworn to before me on 11/15/2007

Gail Williams

John Axelrod

John Axelrod

Server's License#:

GAIL WILLIAMS
Notary Public, State of New York
No. 4685052
Qualified in Westchester County
Commission Expires September 30, 2010

83180.2

United States Bankruptcy Court

DISTRICT OF NEVADA

IN RE

USA COMMERCIAL MORTGAGE COMPANY,
 USA CAPITAL REALTY ADVISORS, LLC,
 USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,
 USA CAPITAL FIRST TRUST DEED FUND LLC,
 USA SECURITIES, LLC,

DEBTORS.

AFFECTS: USA COMMERCIAL MORTGAGE CO.

TO: LES UTLEY
 34843 RANCHO CALIFORNIA ROAD
 TEMECULA, CALIFORNIA 92591

SUBPOENA FOR RULE 2004 EXAMINATION

CASE NOS. BK-S-06-10725 LBR
BK-S-06-10726 LBR
BK-S-06-10727 LBR
BK-S-06-10728 LBR
BK-S-06-10729 LBR

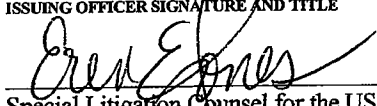
JOINTLY ADMINISTERED UNDER
 CASE No. BK-S-06-10725-LBR

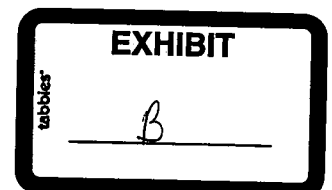
X YOU ARE COMMANDED to appear and testify at an examination under Federal Rule of Bankruptcy Procedure 2004, at the place, date and time specified below. A copy of the court order authorizing the examination is attached. The USACM Liquidating Trust reserves the right to videotape the examination.

PLACE OF TESTIMONY	DATE AND TIME
MERRILL CORPORATION BRITISH PACIFIC CENTER 8899 UNIVERSITY CENTER LANE, SUITE 200 SAN DIEGO, CALIFORNIA 92122	December 27, 2007 at 10:00 a.m. (or such other mutually agreeable date and time)

X YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:

SEE ATTACHED EXHIBIT "A" FOR DOCUMENTS REQUESTED

PLACE	DATE
MERRILL CORPORATION BRITISH PACIFIC CENTER 8899 UNIVERSITY CENTER LANE, SUITE 200 SAN DIEGO, CALIFORNIA 92122	December 27, 2007 at 10:00 a.m. (or such other mutually agreeable date and time)
ISSUING OFFICER SIGNATURE AND TITLE	DATE
 Special Litigation Counsel for the USACM Liquidating Trust	December 14, 2007
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
ERIN E. JONES, ESQ. DIAMOND MCCARTHY LLP 909 FANNIN, SUITE 1500 HOUSTON, TX 77010 (713) 333-5100	



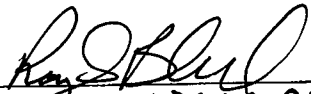
PROOF OF SERVICE

DATE: DECEMBER 17, 2007	PLACE: 34843 RANCHO CALIFORNIA RD. TEMECULA, CA 92591
SERVED: 11:10 AM	
SERVED ON (PRINT NAME) LES UTLEY	MANNER OF SERVICE PERSONAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on DECEMBER 17, 2007
Date


Signature of Server **ROY G. BLACK, RIVERSIDE #703**
27315 JEFFERSON AVE., Ste. J-37
TEMECULA, CA 92590
Address of Server **(951) 676-1300**

Rule 45, Federal Rules of Civil Procedure, Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order by the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any persons who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance.
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held or,

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

83968.1

United States Bankruptcy Court

DISTRICT OF NEW MEXICO

IN RE

USA COMMERCIAL MORTGAGE COMPANY,
 USA CAPITAL REALTY ADVISORS, LLC,
 USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,
 USA CAPITAL FIRST TRUST DEED FUND LLC,
 USA SECURITIES, LLC,

DEBTORS.

AFFECTS: ALL DEBTORS

TO: MICHAEL JOHNSON
 11 CONNIE LANE
 CLOVIS, NEW MEXICO 88101

SUBPOENA FOR RULE 2004 EXAMINATION

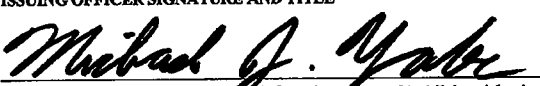
CASE NOS. BK-S-06-10725 LBR
BK-S-06-10726 LBR
BK-S-06-10727 LBR
BK-S-06-10728 LBR
BK-S-06-10729 LBR

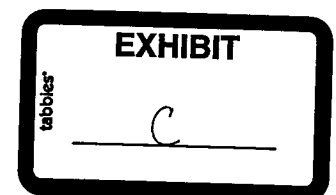
JOINTLY ADMINISTERED UNDER
 CASE NO. BK-S-06-10725-LBR
 IN THE DISTRICT OF NEVADA

X YOU ARE COMMANDED to appear for examination under Federal Rule of Bankruptcy Procedure 2004 at the place, date and time specified below. The USACM Liquidating Trust reserves the right to videotape all examinations.

PLACE OF TESTIMONY	DATE AND TIME
POOL LAW FIRM 400 PILE STREET, SUITE 100 CLOVIS, NEW MEXICO	February 7, 2008 at 10:00 a.m. (or such other mutually agreeable date and time)

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:

PLACE	DATE
ISSUING OFFICER SIGNATURE AND TITLE  Special Litigation Counsel for the USACM Liquidating Trust	DATE December 20, 2007
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER MICHAEL YODER DIAMOND MCCARTHY, LLP 909 FANNIN, SUITE 1500 HOUSTON, TX 77010 (713) 333-5100	



PROOF OF SERVICE

DATE:

PLACE:

SERVED:

SERVED ON (PRINT NAME)

MICHAEL JOHNSON

MANNER OF SERVICE

HAND / HAND

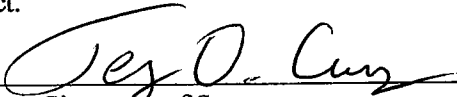
DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

12-22-07

Date



Signature of Server

404 W. RANDOLPH WAY CLAVIS N.M. 88201

Address of Server

Rule 45, Federal Rules of Civil Procedure, Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.

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(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order by the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any persons who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

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- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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